

CCRB CASE CLOSING FORM

Investigator assigned: Winston Martindale		Team 8	CCRB#: 9604756	FADO: F/A/D/E
Date of incident: 09/11/96	Time of incident: 1830 hrs	Location of incident: In front of § 87(2)(b) § 87(2)(b)	Pct. of occurrence: 041	Date SOL expires: 03/11/98
Date reported: 10/10/96	Time reported: 1454 hrs	To whom/where/how reported: To C.C.R.B. via telephone, to A.I. Vega		
Complainant: § 87(2)(b)	Home address: § 87(2)(b) [REDACTED]			
Victim(s): Same	Same			
Witness(es): § 87(2)(b)				
Subject officer(s) (include rank): Sgt. James Caban	Shield: 00311	Tax: 895077	Command: 041	
Witness officer(s) (include rank): P.O. Courtland Spruils P.O. Lon Pannisidi P.O. Ricardo Amaro P.O. George Costoso P.O. Jose Vargas	24399 11702 13875 02879 17769	907385 907007 905687 901375 916837	041 041 041 041 041	

1A

Allegation(s) by letter:	Recommendations:
(A) Sgt. Caban punched § 87(2)(b) in the face.	§ 87(2)(g)
(B) Unidentified officers hit § 87(2)(b) with night sticks and their fists repeatedly.	§ 87(2)(g)
(C) Unidentified officers kicked § 87(2)(b) and stepped on him.	§ 87(2)(g)
(D) Unidentified officer placed his foot on § 87(2)(b) throat.	§ 87(2)(g)
(E) Unidentified officer threatened to break § 87(2)(b) kneecaps.	§ 87(2)(g)
(F) Unidentified M.O.S. threatened to spray § 87(2)(b) with pepper spray if he did not "shut his fucking mouth."	§ 87(2)(g)
(G) Sgt. Caban was discourteous when he told § 87(2)(b), "Fuck the bag."	§ 87(2)(g)
(H) Sgt. Caban failed to secure § 87(2)(b) possessions resulting in theft of his bags and briefcase.	§ 87(2)(g)
(I) Unidentified officer referred to § 87(2)(b) as a "Crazy fucking Nigger."	§ 87(2)(g)

Summary

On September 11th, 1996, at approximately 6:30 p.m., § 87(2)(b) was walking towards § 87(2)(b). He was going to § 87(2)(b) located at that address. As he approached the intersection with Garrison and Manida Avenue, § 87(2)(b) noticed a marked police car in the middle of the street. He also observed a Hispanic Male, identified as § 87(2)(b), being placed under arrest. Two women came out of § 87(2)(b) and told the officers Spruils and Pannisidi that § 87(2)(b) lived there and that he was not a drug dealer. P.O. Spruils then spoke into his radio and a few minutes later, another RMP arrived. In this car were Sgt. Caban, P.O. Vargas, P.O. Amaro and P.O. Costoso. § 87(2)(b) observed what he thought to be a near fight, and proceeded to write down the RMP numbers. At that point, Sgt. Caban noticed § 87(2)(b) and walked over to him and asked him what he was doing. Sgt. Caban then asked § 87(2)(b) to provide some identification. § 87(2)(b) explained that he lived in the neighborhood, and that he was there to attend a meeting at § 87(2)(b). When § 87(2)(b) turned around to retrieve his identification from his briefcase, Sgt. Caban grabbed the paper with the RMP numbers began to read it. When § 87(2)(b)

protested, Sgt. Caban threw the paper into the street and grabbed § 87(2)(b) arm. In response, § 87(2)(b) pulled his arm away and informed Sgt. Caban not to touch him unless he was under arrest. § 87(2)(b) then alleges that Sgt. Caban punched him in the face (Allegation A). When the sergeant attempted to hit him a second time, § 87(2)(b) grabbed his hand. At that point, three officers ran over with their night sticks drawn and began to beat § 87(2)(b) (Allegation B).

According to § 87(2)(b), the four officers beat him with the night sticks and their fists. They were screaming, "Get down on the ground." An unidentified officer said, "He is a crazy fucking nigger" (Allegation I). While on the ground, § 87(2)(b) alleged that an unidentified officer placed his foot on the rear of § 87(2)(b) neck while another officer handcuffed him (Allegation D). While on the ground, he was kicked and stepped on by some of the officers (Allegation C). § 87(2)(b) also alleged that one of the officers said, "Let me break his knee caps" (Allegation E). Just before they stopped beating him, P.O. Costoso screamed and the other officers ceased hitting § 87(2)(b). Apparently, P.O. Costoso sustained an injury to his thumb during the struggle.

When § 87(2)(b) was placed on his feet, he asked Sgt. Caban to secure his bags. In response, Sgt. Caban told him, "Fuck the bags" (Allegation G). § 87(2)(b) was then placed into the RMP. While in the vehicle, § 87(2)(b) stated that he yelled out to the two women who were standing on the corner. He told them to retrieve his belongings, however they ignored him. At that point, one of the officers sitting in the front seat of the vehicle, turned around holding a can of pepper spray and said, "Shut your fucking mouth or I'll spray this in your mouth" (Allegation F). § 87(2)(b) was then taken to the 41st precinct where he was treated by EMS for scrapes and bruises. At the precinct he was placed in the cell with the Hispanic male who was also arrested. It was then that he discovered that his name was § 87(2)(b). § 87(2)(b) told § 87(2)(b) that he had witnessed everything and that he would be a witness. § 87(2)(b) stated that P.O. Spruils and P.O. Pannisidi were not involved in the attacks, however they were acting as lookouts. § 87(2)(b) was arrested for § 87(2)(b) and issued a D.A.T. Sgt. Caban failed to secure § 87(2)(b) property which was left at the scene of the arrest (Allegation H).

According to the police officers, P.O. Pannisidi and P.O. Spruils were driving along Garrison where they observed some suspicious actions involving § 87(2)(b) and an unidentified female. Upon approaching, § 87(2)(b) he fled, discarding a controlled substance in the interim. § 87(2)(b) was then placed under arrest and Sgt. Caban was called to verify the arrest.

Sgt. Caban and P.O. Vargas had just picked up P.O. Amaro and P.O. Costoso, who were assigned to a foot post, and was transporting them back to the station house. En route to the precinct, they received a call from P.O. Spruils and P.O. Pannisidi asking the sergeant to verify an arrest. According to P.O. Vargas, there was a large crowd gathering at the scene when they arrived. Sgt. Caban, P.O. Vargas and P.O. Pannisidi all stated that § 87(2)(b) was obstructing the arrest by shouting, "Fuck the police, we don't have to take this." Sgt. Caban approached § 87(2)(b) and asked him to desist from such behavior. When § 87(2)(b) refused to comply and kept on yelling obscenities, Sgt. Caban instructed him to leave the area. Upon his refusal to do so, Sgt. Caban attempted to place § 87(2)(b) under arrest. A scuffle ensued and the other

officers ran over and assisted in handcuffing § 87(2)(b). The four officers fell to the ground with § 87(2)(b), who flailed his arms and hit Sgt. Caban on the shoulder. The officers either denied or did not recall whether § 87(2)(b) had a bag and all denied that the allegations happened, with the exception of P.O. Amaro.

Analysis

§ 87(2)(b), an independent witness who works as the associate director of § 87(2)(b) witnessed the incident from a rooftop approximately 50 yards away from the scene of the incident. A recent field trip by Inv. Martindale and Inv. Pichardo, determined that § 87(2)(b) would have had a bird's eye view of the incident as it happened. § 87(2)(b) on the other hand only directed his attention to the situation after the four officers surrounded § 87(2)(b), stripped him of his bags and threw him to the ground. He did not witness either the beating with fists and night sticks, or the punch by Sgt. Caban. § 87(2)(b) stated that if § 87(2)(b) was in fact yelling obscenities towards the officers, he would have heard them and directed his attention to the situation sooner than he did. He also stated that there was no crowd gathered, only four to five onlookers. § 87(2)(b) also corroborated § 87(2)(b) allegation that his bags were left at the scene of the arrest. § 87(2)(b) stated that the officers knew that the bags belonged to § 87(2)(b) because they removed them from his person. After the police took § 87(2)(b) away, the people who were standing there helped themselves to his belongings and left.

§ 87(2)(b) stated that even though he did not see the officers hitting § 87(2)(b) with night sticks, as he moved closer he heard § 87(2)(b) saying, "Why are you hitting me?" § 87(2)(b) does not know § 87(2)(b), however, two weeks after the incident, § 87(2)(b) came to § 87(2)(b) in search of witnesses and he volunteered. (§ 87(2)(b) did not know § 87(2)(b) name when he spoke to Inv. Martindale).

Sgt. Caban, P.O. Vargas and P.O. Pannisidi attempted to portray § 87(2)(b) as a totally unruly individual, who kept yelling obscenities at the police officers as they were attempting to place § 87(2)(b) under arrest. P.O. Amaro and Paul Lipson, on the other hand denied hearing § 87(2)(b) saying, "Fuck the police!" § 87(2)(g)

Allegation A: § 87(2)(g)

§ 87(2)(g) Sgt. Caban denied that he ever hit § 87(2)(b), instead, he accused § 87(2)(b) of hitting him on the shoulder. At his interview, P.O. Amaro stated that he observed Sgt. Caban and § 87(2)(b) throwing punches at each other. Upon realizing the damaging effect of this statement, he added that he "did not specifically see Sgt. Caban hit § 87(2)(b) in the face, however, Sgt. Caban was defending himself". Sgt. Caban, on the other hand totally denied hitting § 87(2)(b) at any time during the interaction.

§ 87(2)(g)

ID

§ 87(2)(g)

§ 87(2)(b)

visited the hospital on [REDACTED] § 87(2)(b). His medical records indicated that he had visible bruises under his left eye, behind his left ear and had dried blood on his face. § 87(2)(g) [REDACTED]

Allegation B, C, D, E and I

§ 87(2)(b) alleges that officers, hit him with night sticks, kicked him, stepped on him and called him a "fucking crazy nigger." One of the officers also placed his foot on the rear of § 87(2)(b) neck and threatened to break his knee caps. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Mr. McDaniel cannot say which officer placed his foot on his neck, threatened to break his knee caps and called him a nigger. The only descriptions that he could provide were of three officers; one was a white male, slim build, dark hair with no glasses. The other was a white male whom he identified as P.O. Perez, and a male who was 6 feet tall. § 87(2)(g)
[REDACTED]
[REDACTED]

Allegation F:

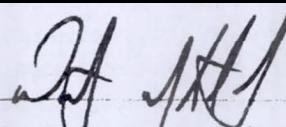
§ 87(2)(g) [REDACTED].

§ 87(2)(b) alleges that an officer threatened to spray him if he did not shut his fucking mouth. § 87(2)(g) [REDACTED] stated that it might have been P.O. Perez. He also stated that it was one of the officers sitting in the front seat of the RMP. First, there was no P.O. Perez present at the scene. § 87(2)(g) [REDACTED]
[REDACTED]

Allegations G and H:

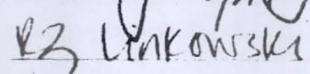
§ 87(2)(b) alleges that Sgt. Caban failed to secure his belongings at the time of his arrest, resulting in theft. He also stated that when he asked the sergeant to secure his property, Sgt. Caban said, "fuck the bags!" At his interview, Sgt. Caban denied that § 87(2)(b) had bags in his possession. The independent witness, § 87(2)(b) § 87(2)(g) refuted this claim by stating that the officers knew that the bags belonged to § 87(2)(b) § 87(2)(g) [REDACTED]

Investigator:



Date: 03/31/91

Supervisor:



Date: 3.31.91

Reviewed by:

Date: _____

Reviewed by:

Date: _____

1E